

Message Text

CONFIDENTIAL

PAGE 01 MANILA 04201 110532Z

17

ACTION EA-13

INFO OCT-01 SS-14 ISO-00 PM-03 L-02 H-01 SP-01 EB-03

COME-00 OMB-01 TRSE-00 CIEP-01 STR-01 AGR-03 ACDA-10

NSC-07 NSCE-00 CIAE-00 INR-10 NSAE-00 RSC-01 AID-10

DODE-00 DRC-01 /083 W
----- 040278

R 110502Z APR 74

FM AMEMBASSY MANILA
TO SECSTATE WASHDC 2633

C O N F I D E N T I A L MANILA 4201

LIMDIS

E.O. 11652: GDS

TAGS: EGEN, ETRD, US, RP

SUBJECT: PROPOSAL FOR SERVICE CONTRACTS TO ALLOW
USE OF PUBLIC LANDS

REF: MANILA 4108, 4188, AND 4200

1. AT THE SUGGESTION OF PATERNO, THE AMCHAM OF PHIL
DRAFTED A PROPOSED DECREE TO ALLOW DEVELOPMENT AND UTIL-
IZATION OF NATURAL RESOURCES INCLUDING PUBLIC LAND BY
FOREIGNERS AND FOREIGN ENTERPRISES THROUGH THE USE OF
SERVICE CONTRACTS AND A NEW CONCEPT OF LIMITED USE
PERMITS. AMCHAM UTILIZED SERVICES OF THEIR PHIL ATTORNEY
TO DRAFT DECREE AND PROVIDED COPY TO ARNOLD WHO THEN
DISCUSSED IT WITH PATERNO. PATERNO INDICATED HE WOULD
TAKE IT UP WITH THE CABINET COMMITTEE.

2. ONE UNIQUE ASPECT OF PROPOSED DECREE IS THAT AT
SUGGESTION OF ARNOLD AMCHAM ATTORNEYS DEVELOPED
CONCEPT OF PERMITS FOR PIPELINES, COMMUNICATION AND
POWER LINES AND SERVICE ROADS ACROSS PUBLIC AND
FORESHORE LANDS BY FOREIGN INDIVIDUALS AND FIRMS. THIS
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 MANILA 04201 110532Z

CONCEPT OF PERMITS WOULD BE USED IN LIEU OF THE SERVICE

CONTRACT WHEN SUCH WOULD BE MORE APPROPRIATE DUE TO LIMITED USE OF PUBLIC AND FORESHORE LANDS REQUIRED FOR SUCH PURPOSES.

3. THE FOLLOWING IS THE TEXT OF THE PROPOSED AMCHAM DECREE:

QUOTE: ALLOWING SERVICE CONTRACTS FOR EXPLORATION, DEVELOPMENT, EXPLOITATION OR UTILIZATION OF NATURAL RESOURCES OF THE PHILIPPINES

WHEREAS, IT IS THE DECLARED POLICY OF THE GOVERNMENT TO ENCOURAGE FOREIGN INVESTMENT AND PARTICIPATION IN THE ECONOMIC DEVELOPMENT OF THE COUNTRY WITHIN THE PURVIEW OF THE CONSTITUTION;

WHEREAS, THE DISPOSITION, EXPLORATION, DEVELOPMENT, EXPLOITATION, OR UTILIZATION OF THE NATURAL RESOURCES OF THE PHILIPPINES MAY BE PROPERLY BE ADVANCED OR ENHANCED WITH FOREIGN FINANCIAL TECHNICAL, MANAGEMENT OR OTHER FORM OF ASSISTANCE;

WHEREAS, IT IS IN THE NATIONAL INTEREST THAT CITIZENS OF THE PHILIPPINES, OR CORPORATION OR ASSOCIATIONS AT LEAST SIXTY PER CENTUM OF THE CAPITAL OF WHICH IS OWNED BY SUCH CITIZENS AND THE GOVERNMENT, THROUGH ANY OF ITS AGENCIES OR INSTRUMENTALITIES, BE ALLOWED TO ENTER INTO SERVICE CONTRACTS, AS ENVISIONED IN THE CONSTITUTION, FOR FINANCIAL, TECHNICAL, MANAGEMENT OR OTHER FORM OF ASSISTANCE WITH ANY FOREIGN PERSON OR ENTITY FOR THE EXPLORATION, DEVELOPMENT, EXPLOITATION OR UTILIZATION OF ANY OF THE NATURAL RESOURCES OF THE COUNTRY.

NOW, THEREFORE, I, FERDINAND E. MARCOS, COMMANDER-IN-CHIEF OF ALL THE ARMED FORCES OF THE PHILIPPINES, PURSUANT TO PROCLAMATION NO. 1081, DATED SEPTEMBER 21, 1972, AND GENERAL ORDER NO. 1, DATED SEPTEMBER 22, 1972, AS AMENDED, AND IN ACCORDANCE WITH THE AUTHORITY VESTED IN ME UNDER THE PROVISIONS OF ARTICLE XIV, SECTION 9, IN RELATION TO ARTICLE XVII, SECTION 3(1), OF THE CONSTITUTION OF THE PHILIPPINES, DO HEREBY DECREE THAT:

SECTION 1. ANY CITIZEN OF THE PHILIPPINES, OR ANY CORPORATION OR ASSOCIATION AT LEAST SIXTY PER CENTUM OF THE CAPITAL OF WHICH IS OWNED BY SUCH CITIZENS, WHO HAS BEEN CONFIDENTIAL

CONFIDENTIAL

PAGE 03 MANILA 04201 110532Z

GRANTED OR ISSUED A LICENSE, CONCESSION, PRIVILEGE, LEASE OR RIGHT FOR THE EXPLORATION, DEVELOPMENT, EXPLOITATION OR UTILIZATION OF ANY OF THE NATURAL RESOURCES OF THE PHILIPPINES, OR ANY GOVERNMENT AGENCY OF INSTRUMENTALITY, MAY ENTER INTO A SERVICE CONTRACT FOR FINANCIAL, TECHNICAL, MANAGEMENT OR OTHER FORM OF ASSISTANCE WITH ANY FOREIGN PERSON OR ENTITY IN CONNECTION WITH SUCH EXPLORATION, DEVELOPMENT, EXPLOITATION OR UTILIZATION OF THE NATURAL RESOURCES OF

THE COUNTRY; PROVIDED, HOWEVER, THAT IN CASES INVOLVING INDUSTRIES THAT ARE EXPORT-ORIENTED OR ARE IN THE NATIONAL INTEREST, THE LAYING OF COMMUNICATION OR POWER LINES, OR PETROLEUM CHEMICAL, OR OTHER PIPELINES, THE CONSTRUCTION AND USE OF SERVICE ROADS, LOADING AND UNLOADING FACILITIES AND WATERWAYS IN, ON OR ACROSS PUBLIC LANDS, FORESHORES AND SEA BEDS, IF NECESSARY FOR THE OPERATION OF THE INDUSTRY, MAY BE ALLOWED BY THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, WITHOUT NEED OF A SERVICE CONTRACT, BUT THE PERSON OR CORPORATION TO WHOM THE PERMIT IS GRANTED SHALL BE REQUIRED TO PAY AN ANNUAL LICENSE FEE IN SUCH AMOUNT AS SHALL BE DETERMINED BY THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES.

SECTION 2. THE BOARD OF INVESTMENTS, UPON RECOMMENDATION OF THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, SHALL HAVE THE AUTHORITY TO APPROVE ALL SERVICE CONTRACTS FOR TECHNICAL, FINANCIAL, MANAGEMENT OR OTHER FORM OF ASSISTANCE WITH A FOREIGN PERSON OR PERSONS, OR ENTITY OR ENTITIES, FOR THE EXPLORATION, DEVELOPMENT, EXPLOITATION OR UTILIZATION OF NATURAL RESOURCES.

SECTION 3. ANY FOREIGN PERSON OR ENTITY WHO SHALL HAVE ENTERED INTO ANY SUCH SERVICE CONTRACT MAY INVEST IN, PUT UP, ESTABLISH, MAINTAIN, OWN AND LEASE ANY IMPROVEMENT, INCLUDING BUILDINGS, WHARVES, PIERS, CABLES, BRIDGES OR OTHER INSTALLATIONS, AS WELL AS MACHINERY, EQUIPMENT AND OTHER FACILITIES ON THE AREA COVERED BY OR EMBRACED IN THE LICENSE, PERMIT, CONCESSION, LEASE OR OTHER PRIVILEGE OF OBLIGATIONS UNDER SAID CONTRACT, AND TO UTILIZE AND CONTINUE TO OWN, LEASE OR MAINTAIN ANY EXISTING IMPROVEMENT, INSTALLATIONS, MACHINERY, EQUIPMENT OR FACILITIES ON ANY AREA SUBJECT OF THE SERVICE CONTRACT FOR THE IMPLEMENTATION THEREOF AND, UPON EXPIRATION OF THE TERM OF THE SERVICE CONTRACT

CONFIDENTIAL

PAGE 04 MANILA 04201 110532Z

CONTRACT OR ITS TERMINATION FOR ANY REASON, TO REMOVE OR DISPOSE OF SAID IMPROVEMENT, INSTALLATIONS, MACHINERY, EQUIPMENT OR FACILITIES, WITHOUT PREJUDICE TO THE RIGHT OF THE GOVERNMENT, WHEN PUBLIC INTERESTS SO WARRANT, TO EXPROPRIATE THE SAME UPON PAYMENT OF JUST COMPENSATION.

SECTION 4. IN THE DEVELOPMENT, EXPLORATION, EXPLOITATION OR UTILIZATION OF ANY NATURAL RESOURCES COVERED BY A SERVICE CONTRACT, THE FOREIGN CONTRACTOR SHALL BE ENTITLED TO ANY AND ALL EASEMENTS OR SERVITUDES WITHIN ANY AREA OF THE PUBLIC DOMAIN AS MAY BE NEEDED, SUBJECT TO PUBLIC EASEMENTS ESTABLISHED BY LAW, AND UNDER SUCH TERMS AND CONDITIONS AS THE GOVERNMENT AGENCY WITH JURISDICTION MAY DETERMINE AND PRESCRIBE.

SECTION 5. THIS DECREE SHALL TAKE EFFECT IMMEDIATELY.
DONE IN THE CITY OF MANILA, PHILIPPINES THIS....DAY
OF....1974. FERDINAND E. MARCOS PRESIDENT OF THE
PHILIPPINES UNQUOTE
SULLIVAN

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAND, TRADE, ECONOMIC PROGRAMS, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 11 APR 1974
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974MANILA04201
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740083-0562
From: MANILA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740449/aaaabrv.m.tel
Line Count: 174
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: LIMDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: LIMDIS
Reference: MANILA 4108, 4188, AND 4200
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 07 AUG 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <07-Aug-2002 by worrelsw>; APPROVED <14 FEB 2003 by GolinoFR>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PROPOSAL FOR SERVICE CONTRACTS TO ALLOW USE OF PUBLIC LANDS
TAGS: EGEN, ETRD, US, RP
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005